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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,129	11/20/2003	Norival R. Figueira	14715ROUS03U	9076
34645	7590	08/25/2009		
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EXAMINER				
PATEL, CHANDRAHAS B				
ART UNIT		PAPER NUMBER		
2416				
NOTIFICATION DATE		DELIVERY MODE		
08/25/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/718,129

Applicant(s)

FIGUEIRA ET AL.

Examiner

Chandras Patel

Art Unit

2416

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 4, 6-10 and 15-22.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2416

/Chandras Patel/
Examiner, Art Unit 2416

Continuation of 3. NOTE: Applicant's amendment to claim 1 raise the consideration of new issues by adding the limitation, "the frame having an Ethernet Media Access Control (MAC) header including at least one 6 byte MAC address, the 6 byte MAC address including an address portion which is divided into a plurality of sub-fields, at least two of the sub-fields of the address portion being greater than 2 bits in length and shorter than 5 bytes in length and each sub-field having local significance to a separate switch on the communication network such that each separate switch will read only one of the plurality of sub-fields of the MAC address when making a switching decision for the frame". This new limitation was not present in the claim before and any of the dependent claims.

Applicant's amendment to claim 10 raise the consideration of new issues by adding the limitation, "each of the PLURALITY OF fields containing a code to be used by a switch on a network INDEPENDENT OF THE OTHER FIELDS OF THE DESTINATION MAC ADDRESS to identify an output port on the switch without performing a table lookup operation to enable the switch on the network to make a forwarding decision for the protocol data unit". This new limitation was not present in the claim before and the claim does not have any dependent claim. Claim 10 is still reneaded non-statutory since the claim is claiming a data structure. Claim 10 states, "... the protocol data unit data structure comprising:..." The data structure per se when being claimed is non-statutory.

Applicant's amendment to claim 15 raise the consideration of new issues by adding the limitation, "setting a local bit in THE FIRST OCTET OF the MAC address to indicate to network elements on the network that the MAC address is locally assigned; and assigning a first value to a first field SPANNING A PORTION OF THE MAC ADDRESS OTHE THAN THE FIRST OCTET OF THE MAC ADDRESS AND NOT ALL OF THE SECOND THROUGH SIXTH OCTETS of the MAC address, the first field containing a smaller number of bits than a total number of bits CONTAINED IN THE SECOND THROUGHT SIXTH OCTETS of the destination MAC address, said first value containing first output interface information usable by a first switch WITHOUT REFERENCE TO INFORMATION CONTAINED IN THE SECOND THROUGHT SIXTH OCTETS OUTSIDE OF THE FIRST FIELD to identify a first output interface for transmission of frames containing the first value in the first field of said MAC address." The limitations as amended were not present in the claim before and any of the dependent claims.